

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

CHARLES M. AUSTIN,)	
)	
Plaintiff,)	
)	
v.)	Case No. 4:19-cv-01972-MHH-JHE
)	
WARDEN ESTES, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

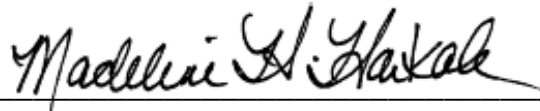
In the *pro se* amended complaint that he filed pursuant to 42 U.S.C. § 1983, plaintiff Charles M. Austin alleges violations of his rights under the Constitution or laws of the United States. (Docs. 14, 15). On January 11, 2023, the magistrate judge entered a report in which he recommended that the Court dismiss without prejudice Mr. Austin's claims against former Warden Cedric Specks for want of service of process pursuant to Federal Rule of Civil Procedure 4(m). (Doc. 72). The magistrate judge also recommended that the Court grant retired Warden Dwayne Estes's and Lieutenant Angela Gordy's motion for summary judgment. (Doc. 72). Although the magistrate judge advised the parties of their right to file specific written objections within 14 days, the Court has not received objections. The Court notes that Mr. Austin did not file evidence to oppose the defendants' motion for summary

judgment, (Doc. 72, p. 3), but he filed a detailed written statement before the magistrate judge ordered the defendants to file a special report. (Docs. 15, 19).

After consideration of the record in this case and the magistrate judge's report, the Court adopts the magistrate judge's report and accepts his recommendation. The Court is concerned by the allegation that an inmate who was assigned to an isolated T.C. dorm and prohibited from interacting with inmates in other dorms was able to "pass through a total of five (5) other officer controlled doorways" to enter a dorm from which he was prohibited, but on the current record, the Court does not have enough information about the nature of the doorways to know how the doors should have been monitored and the circumstances that allowed Mr. Eldridge to leave his dorm and enter Mr. Austin's dorm. The Court does not have information that indicates whether Mr. Eldridge allegedly had a knife as he passed through the "officer controlled doorways" or whether Mr. Eldridge acquired a knife after he entered Mr. Austin's dorm. The Court also cannot tell how long Mr. Eldridge allegedly was in Mr. Austin's dorm before he entered Mr. Austin's cell. This information possibly would impact the analysis of Mr. Austin's claims, but Mr. Austin supplied no information in opposition to the defendants' summary judgment motion, and he did not object to the magistrate judge's report and supply additional information.

Therefore, by separate order, the Court will dismiss without prejudice Mr. Austin's claims against former Warden Cedric Specks for want of service of process pursuant to Federal Rule of Civil Procedure 4(m), and the Court will enter judgment for defendants Estes and Gordy on Mr. Austin's claims against them.

DONE and **ORDERED** this February 2, 2023.

A handwritten signature in black ink, reading "Madeline H. Haikala", written over a horizontal line.

MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE